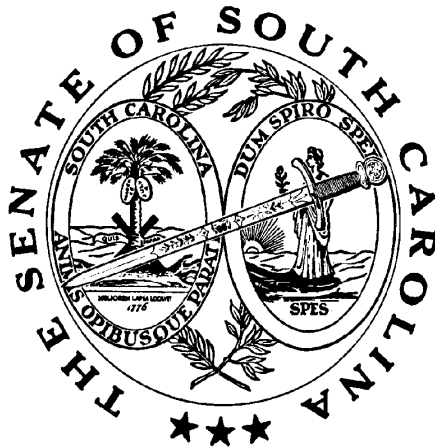


NO. 21

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2009

TUESDAY, FEBRUARY 24, 2009

**Tuesday, February 24, 2009
(Statewide Session)**

~~Indicates Matter Stricken~~
Indicates New Matter

The Senate assembled at 12:00 Noon, the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

In the Old Testament we read how the prophet, Isaiah, proclaims:

“... O Lord you are our Father; we are the clay, you are our potter; we are all the work of your hand.” (Isaiah 64:8)

Let us pray:

Holy God, you have blessed Creation with endless variety. We find ourselves enriched again and again by the wonders of Your world. And in the midst of our very diversity there remains the simple fact that we are all Yours: Your children, Your people, Your world. Guide us all as we discover ways to care for Your people and for Your world, O Lord. And here in South Carolina may these Senators, their dedicated staff members, and all the other leaders of this State remain committed to doing everything that is possible to increase the blessings and to enhance the joys which all of us share. In Your loving name we pray, dear Lord.

Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

REGULATIONS WITHDRAWN AND RESUBMITTED

The following were received:

Document No. 3206

Agency: Department of Labor, Licensing and Regulation - Board of Chiropractic Examiners

SUBJECT: Board of Chiropractic Examiners - Application, Renewal and Continuing Education

Received by Lieutenant Governor April 24, 2008

Referred to Medical Affairs Committee

Legislative Review Expiration March 31, 2009

TUESDAY, FEBRUARY 24, 2009

Document No. 3222

Agency: Public Service Commission

SUBJECT: Interruption of Service, Computation of Time, Emergency Procedures, and Service Between Parties of Record

Received by Lieutenant Governor January 13, 2009

Referred to Judiciary Committee

Legislative Review Expiration May 13, 2009

Doctor of the Day

Senator LOURIE introduced Dr. Chris Yeakel of Columbia, S.C., S.C., Doctor of the Day.

Leave of Absence

At 12:05 P.M., Senator ROSE requested a leave of absence for Wednesday, February 25 and Thursday, February 26, 2009.

Leave of Absence

On motion of Senator CAMPBELL, at 12:05 P.M., Senator CAMPSER was granted a leave of absence for today.

Leave of Absence

At 3:26 P.M., Senator LEATHERMAN requested a leave of absence for the balance of the day.

Leave of Absence

At 3:41 P.M., Senator HAYES requested a leave of absence for Wednesday, February 25, 2009, beginning at 12:00 Noon.

Leave of Absence

At 3:45 P.M., Senator CLEARY requested a leave of absence for Thursday, February 26, 2009.

Leave of Absence

On motion of Senator GROOMS, at 3:45 P.M., Senator VERDIN was granted a leave of absence for today.

Expression of Personal Interest

Senator ALEXANDER rose for an Expression of Personal Interest.

CO-SPONSORS ADDED

The following co-sponsors were added to the respective Bills:

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S. 336	Sen. Verdin
S. 416	Sen. Thomas
S. 424	Sen. Grooms
S. 391, 392	Sen. Rose
S. 419, 420	Sen. Rose
S. 428, 452	Sen. Rose
S. 455	Sen. Rose
S. 398	Sen. Ryberg
S. 269	Sen. Sheheen
S. 221, 229, 435	Sen. McConnell
S. 336	Sen. Thomas

Motion Adopted

On motion of Senator McCONNELL, with unanimous consent, the Senate agreed that, at the conclusion of the Joint Assembly, the Senate would stand in recess until 2:30 p.m.

Committee to Escort

The PRESIDENT appointed Senators COURSON, MULVANEY, NICHOLSON, S. MARTIN and SCOTT to escort the Honorable Dave Rehbein, National Commander of the American Legion, and members of his party to the House of Representatives for the Joint Assembly.

RECESS

At 12:25 P.M., on motion of Senator L. MARTIN, the Senate recessed from business for the purpose of attending the Joint Assembly.

JOINT ASSEMBLY

Address by the National Commander of the American Legion

At 12:30 P.M., the Senate appeared in the Hall of the House.

The PRESIDENT of the Senate called the Joint Assembly to order and announced that it had convened under the terms of a Concurrent Resolution adopted by both Houses:

S. 257 -- Senators Knotts, Setzler, Shoopman, Rose, Bryant, Verdin, Grooms, Alexander, Davis, Cleary, Campsen, Fair, Campbell, S. Martin, Bright and Cromer: A CONCURRENT RESOLUTION TO INVITE THE NATIONAL COMMANDER OF THE AMERICAN LEGION, THE HONORABLE DAVE REHBEIN, TO ADDRESS THE GENERAL ASSEMBLY IN JOINT SESSION IN THE CHAMBER OF THE SOUTH CAROLINA HOUSE OF

TUESDAY, FEBRUARY 24, 2009

REPRESENTATIVES AT 12:30 P.M. ON TUESDAY, FEBRUARY 24, 2009.

The Honorable Dave Rehbein, and members of his party were escorted to the rostrum by Senators COURSON, MULVANEY, NICHOLSON, S. MARTIN and SCOTT and Representatives Daning, Forrester, Long, Williams and H. B. Brown.

The PRESIDENT of the Senate introduced the Honorable Dave Rehbein, National Commander of the American Legion.

Commander Rehbein addressed the Joint Assembly.

The purposes of the Joint Assembly having been accomplished, the President declared it adjourned, whereupon the Senate returned to its Chamber and was called to order by the PRESIDENT.

RECESS

At 12:45 P.M., on motion of Senator L. MARTIN, the Senate recessed from business until 2:30 P.M.

AFTERNOON SESSION

The Senate reassembled at 2:44 P.M. and was called to order by the PRESIDENT *Pro Tempore*.

RECALLED AND ADOPTED

H. 3361 -- Rep. H.B. Brown: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE INTERCHANGE LOCATED AT EXIT 34 IN FAIRFIELD COUNTY ALONG INTERSTATE HIGHWAY 77 THE "SENATOR JOHN A. MARTIN INTERCHANGE" AND ERECT APPROPRIATE MARKERS OR SIGNS AT THIS INTERCHANGE THAT CONTAIN THE WORDS "SENATOR JOHN A. MARTIN INTERCHANGE".

Senator GROOMS moved that the Concurrent Resolution be recalled from the Committee on Transportation.

There was no objection and the Resolution was recalled from the Committee on Transportation.

Senator GROOMS asked unanimous consent to make a motion that the Concurrent Resolution be taken up for immediate consideration and adopted.

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The Concurrent Resolution was adopted, ordered returned to the House.

PRESIDENT PRESIDES

At 2:47 P.M., the PRESIDENT assumed the Chair.

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 459 -- Senator Matthews: A SENATE RESOLUTION TO CONGRATULATE REVEREND WILLIE BATES, JR. ON THE CELEBRATION OF HIS THIRTY-EIGHTH YEAR AS PASTOR OF ANTIOCH BAPTIST CHURCH IN BOWMAN, SOUTH CAROLINA, AND TO WISH HIM MUCH SUCCESS IN THE FUTURE

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The Senate Resolution was adopted.

S. 460 -- Senator Malloy: A SENATE RESOLUTION TO CONGRATULATE JORDAN LYLES OF HARTSVILLE, SOUTH CAROLINA ON BEING SELECTED BY THE HOUSTON ASTROS IN THE FIRST ROUND OF THE MAJOR LEAGUE BASEBALL DRAFT, AND TO WISH HIM MUCH CONTINUED SUCCESS IN ALL HIS FUTURE ENDEAVORS.

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The Senate Resolution was adopted.

S. 461 -- Medical Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF CONSUMER AFFAIRS, RELATING TO LICENSING STANDARDS FOR CONTINUING CARE RETIREMENT COMMUNITIES, DESIGNATED AS REGULATION DOCUMENT NUMBER 3204, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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Read the first time and ordered placed on the Calendar without reference.

S. 462 -- Medical Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR,

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LICENSING AND REGULATION - BOARD OF CHIROPRACTIC EXAMINERS, RELATING TO APPLICATION, RENEWAL AND CONTINUING EDUCATION, DESIGNATED AS REGULATION DOCUMENT NUMBER 3206, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

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Read the first time and ordered placed on the Calendar without reference.

S. 463 -- Senator Peeler: A BILL TO AMEND SECTION 44-36-10 OF THE 1976 CODE, RELATING TO THE PURPOSE AND FUNCTIONS OF THE ALZHEIMER'S DISEASE REGISTRY, TO EXPAND THE TYPES OF DATA COLLECTED BY THE ALZHEIMER'S DISEASE REGISTRY, AND TO PROVIDE FOR THE AUTHORIZATION OF STUDIES ABOUT ALZHEIMER'S DISEASE AND THE CAREGIVERS OF PERSONS WITH ALZHEIMER'S DISEASE.

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Read the first time and referred to the Committee on Medical Affairs.

S. 464 -- Senators Alexander, O'Dell, Land, Matthews, Hutto and Campbell: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 72 TO TITLE 44 SO AS TO ESTABLISH, AND REQUIRE LICENSURE OF, FAMILY CARE FACILITIES, WHICH PROVIDE HOUSING, FOOD, AND PERSONAL SERVICE ASSISTANCE TO NONRELATED ADULTS WHO ARE ELDERLY OR PHYSICALLY DISABLED, TO AUTHORIZE THE PROVISION OF CARE UNDER CERTAIN CIRCUMSTANCES TO PERSONS WHO ARE ELIGIBLE FOR NURSING HOME LEVEL OF CARE, TO REQUIRE AN INDIVIDUAL CARE PLAN FOR EACH RESIDENT, TO PROVIDE STAFFING REQUIREMENTS, TO AUTHORIZE OVERSIGHT OF A FACILITY BY A PROVIDER ENTITY IN LIEU OF A LICENSED ADMINISTRATOR, AND TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO SEEK MEDICARE AND MEDICAID WAIVERS NECESSARY FOR THIS FUNDING TO BE USED FOR PROVIDING CARE AND SERVICES TO RESIDENTS IN THESE FACILITIES.

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TUESDAY, FEBRUARY 24, 2009

Read the first time and referred to the Committee on Medical Affairs.

S. 465 -- Senators Sheheen and Massey: A JOINT RESOLUTION TO ESTABLISH A COMMITTEE TO STUDY SPECIFIC POSSIBLE CHANGES IN THE SOUTH CAROLINA RETIREMENT SYSTEM AND SOUTH CAROLINA POLICE OFFICERS RETIREMENT SYSTEM, TO PROVIDE FOR THE MEMBERSHIP OF THE COMMITTEE AND THE AGENDA ITEMS FOR THE COMMITTEE, AND TO REQUIRE THE COMMITTEE TO MAKE A REPORT AND RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND THE STATE BUDGET AND CONTROL BOARD BEFORE JANUARY 12, 2010, AFTER WHICH THE COMMITTEE'S EXISTENCE TERMINATES.

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Read the first time and referred to the Committee on Finance.

S. 466 -- Senators Lourie, Jackson, Courson and Scott: A SENATE RESOLUTION TO RECOGNIZE AND COMMEND MS. MARTHA SCOTT SMITH, OF RICHLAND COUNTY, FOR HER MANY YEARS OF OUTSTANDING COMMUNITY SERVICE, AND TO CONGRATULATE HER ON RECEIVING THE 2009 UNITED WAY OF THE MIDLANDS HUMANITARIAN OF THE YEAR AWARD.

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The Senate Resolution was adopted.

S. 467 -- Senator Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-71-380 SO AS TO PROVIDE THAT THE OPTIONAL ALCOHOL EXCLUSION PROVISION CONTAINED IN CERTAIN INSURANCE POLICIES THAT REQUIRE THE REPLICATION OF EXACT LANGUAGE AS PROVIDED IN SECTION 38-71-370 DOES NOT APPLY TO A MEDICAL EXPENSE POLICY, AND TO DEFINE MEDICAL EXPENSE POLICY.

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Read the first time and referred to the Committee on Banking and Insurance.

S. 468 -- Senators Hayes and Peeler: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 25 TO CHAPTER 53, TITLE 59 SO AS TO PROVIDE

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FOR THE YORK TECHNICAL COLLEGE ENTERPRISE CAMPUS,
AND TO PROVIDE FOR ITS POWERS AND DUTIES.

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Read the first time and referred to the Committee on Education.

S. 469 -- Senators Matthews, Hutto and Land: A BILL TO AMEND CHAPTER 53, TITLE 59 OF THE 1976 CODE, BY ADDING ARTICLE 24 TO PROVIDE FOR THE ORANGEBURG-CALHOUN TECHNICAL COLLEGE ENTERPRISE CAMPUS, AND TO PROVIDE FOR ITS POWERS AND DUTIES.

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Read the first time and referred to the Committee on Education.

S. 470 -- Senator Cromer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-9-560 SO AS TO SPECIFY APPLICABLE FEES FOR RECREATIONAL SALTWATER FISHING LICENSES; BY ADDING SECTION 50-9-715 SO AS TO SPECIFY RECREATIONAL SALTWATER FISHING LICENSE EXEMPTIONS; BY ADDING SECTION 50-9-925 SO AS TO SPECIFY HOW THE REVENUE FROM THE SALE OF STAMPS, LICENSES, PRINTS, AND RELATED ARTICLES MUST BE DISTRIBUTED; TO AMEND SECTION 50-5-15, RELATING TO THE DEFINITIONS APPLICABLE TO THE SOUTH CAROLINA MARINE RESOURCES ACT, SO AS TO DEFINE THE TERMS "DROP NET" AND "FOLD UP TRAP"; TO AMEND SECTION 50-5-955, RELATING TO THE DESIGNATION AND MAINTENANCE OF PUBLIC SHELLFISH GROUNDS, SO AS TO SUBSTITUTE REFERENCE TO THE RECREATIONAL SALTWATER FISHING LICENSE FOR THE MARINE RECREATIONAL FISHING STAMP; TO AMEND SECTION 50-5-1915, RELATING TO CHARTER FISHING VESSEL LOGS, SO AS TO REQUIRE MONTHLY SUBMISSIONS TO THE SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES; TO AMEND SECTION 50-9-20, RELATING TO THE DURATION OF HUNTING AND FISHING LICENSES, SO AS TO REMOVE REFERENCES TO RESIDENT AND NONRESIDENT LICENSES; TO AMEND SECTION 50-9-40, RELATING TO LICENSES FOR FRESHWATER FISHING, SO AS TO SPECIFY RECREATIONAL FRESHWATER FISHING; TO AMEND SECTION 50-9-540, AS AMENDED, RELATING TO FRESHWATER AND SALTWATER FISHING LICENSES, SO AS

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TO MAKE TECHNICAL CORRECTIONS; AND TO REPEAL SECTIONS 50-5-1905, 50-5-1910 50-5-1920, 50-5-1925, AND 50-5-1945 ALL RELATING TO RECREATIONAL SALTWATER FISHERIES LICENSES AND STAMPS.

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Read the first time and referred to the Committee on Fish, Game and Forestry.

S. 471 -- Senators O'Dell and Bryant: A CONCURRENT RESOLUTION TO REQUEST THAT THE DEPARTMENT OF TRANSPORTATION NAME THE PORTION OF UNITED STATES HIGHWAY 178/76 IN ANDERSON COUNTY FROM ITS INTERSECTION WITH EAST SHOCKLEY FERRY ROAD IN THE CITY OF ANDERSON TO ITS INTERSECTION WITH MAIN STREET IN THE TOWN OF BELTON "VETERAN'S MEMORIAL HIGHWAY" AND ERECT APPROPRIATE MARKERS OR SIGNS ALONG THIS PORTION OF HIGHWAY THAT CONTAIN THE WORDS "VETERANS MEMORIAL HIGHWAY".

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The Concurrent Resolution was introduced and referred to the Committee on Transportation.

S. 472 -- Senator McConnell: A CONCURRENT RESOLUTION TO INVITE THE CHIEF JUSTICE OF THE SOUTH CAROLINA SUPREME COURT, THE HONORABLE JEAN HOEFER TOAL, TO ADDRESS THE GENERAL ASSEMBLY IN JOINT SESSION ON THE STATE OF THE JUDICIARY AT 11:00 A.M. ON WEDNESDAY, FEBRUARY 25, 2009.

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The Concurrent Resolution was adopted, ordered sent to the House.

S. 473 -- Senator Leventis: A BILL TO AMEND ACT 387 OF 2008, RELATING TO THE SUMTER COUNTY CONSOLIDATED SCHOOL DISTRICT, SO AS TO PROVIDE THAT A MEMBER OF THE SUMTER CONSOLIDATION TRANSITION COMMITTEE WHO HAS BEEN DISMISSED, SUSPENDED FROM HIS POSITION, OR DEMOTED, OR RECEIVES ANY DIRECT OR INDIRECT THREATS IN CONNECTION WITH HIS DECISIONS OR ACTIONS ON BEHALF OF THE COMMITTEE MAY INSTITUTE A NONJURY CIVIL ACTION AGAINST SUMTER

TUESDAY, FEBRUARY 24, 2009

**SCHOOL DISTRICT 2 OR SUMTER SCHOOL DISTRICT 17 OR
THEIR SUCCESSORS FOR CERTAIN DAMAGES.**

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Read the first time and ordered placed on the Local and Uncontested Calendar.

H. 3352 -- Reps. Cooper, Owens, Stewart, Whitmire, Funderburk, Rice, Wylie, Allison, E. H. Pitts, R. L. Brown, White, Stavrinakis, Miller, Anderson, Battle, Hayes, Gilliard, Sottile, Mack, Harvin, Whipper, Hutto, G. R. Smith, Knight, Willis, Neilson, T. R. Young, Cobb-Hunter, J. H. Neal, Clyburn, G. M. Smith, Kennedy, Herbkersman, Merrill, Bingham, Ott, J. R. Smith, A. D. Young, Kirsh, Lucas, Littlejohn, Edge, Limehouse, M. A. Pitts, Loftis, D. C. Smith, Pinson, Barfield, Bannister, Dillard, Stringer, Allen, Nanney, Govan, Parker, Frye, Hardwick, Hearn, J. E. Smith, Clemmons, Agnew, Bedingfield, Williams, Vick, Horne, Bales and Umphlett: A JOINT RESOLUTION TO ALLOW LOCAL SCHOOL DISTRICTS AND SPECIAL SCHOOLS TO TRANSFER FUNDS AMONG APPROPRIATED REVENUES IN ORDER TO ENSURE THE DELIVERY OF ACADEMIC AND ARTS INSTRUCTION DURING THE 2008-2009 AND 2009-2010 FISCAL YEARS; TO ALLOW SCHOOL DISTRICTS FOR FISCAL YEARS 2008-2009 AND 2009-2010 TO SUSPEND CERTAIN PROFESSIONAL STAFFING RATIOS, TO TRANSFER FUNDS, TO DELAY THE DATE THAT TEACHER CONTRACTS ARE ISSUED, AND TO NEGOTIATE SALARIES FOR RETIRED AND TERA TEACHERS BELOW MINIMUM SALARY REQUIREMENTS; TO ALLOW SCHOOL DISTRICTS FOR THE 2008-2009 AND 2009-2010 FISCAL YEARS TO FURLOUGH TEACHERS AND SCHOOL AND DISTRICT ADMINISTRATORS UPON CERTAIN CONDITIONS; TO PROVIDE CERTIFICATION AND REPORTING REQUIREMENTS; TO SUSPEND CERTAIN FORMATIVE ASSESSMENTS AND TO ALLOW SCHOOL DISTRICTS TO PURCHASE THE MOST ECONOMICAL TYPE OF BUS FUEL FOR THE 2008-2009 AND 2009-2010 FISCAL YEARS.

Read the first time and referred to the Committee on Finance.

H. 3556 -- Reps. Loftis, Bedingfield, Nanney, Dillard, Cato, Allen, G. R. Smith, Hamilton, Rice, Stringer, Willis and Wylie: A BILL TO CHANGE THE NAME OF THE WESTERN CAROLINA

TUESDAY, FEBRUARY 24, 2009

REGIONAL SEWER AUTHORITY TO RENEWABLE WATER RESOURCES.

Read the first time and ordered placed on the Local and Uncontested Calendar.

REPORTS OF STANDING COMMITTEES

Senator PEELER from the Committee on Medical Affairs submitted a favorable with amendment report on:

S. 317 -- Senator Fair: A JOINT RESOLUTION TO SUSPEND THE PROVISIONS CONTAINED IN ACT 295 OF 2008, RELATING TO DENTAL TECHNOLOGICAL WORK, UNTIL JANUARY 1, 2010.

Ordered for consideration tomorrow.

Senator KNOTTS from the Committee on Invitations polled out H. 3557 favorable:

H. 3557 -- Rep. Huggins: A CONCURRENT RESOLUTION TO DECLARE TUESDAY, FEBRUARY 24, 2009, SOUTH CAROLINA REALTOR DAY IN ORDER TO RECOGNIZE AND HONOR THE MANY OUTSTANDING REALTORS AND REAL ESTATE PROFESSIONALS IN OUR STATE.

**Poll of the Invitations Committee
Polled 6; Ayes 6; Nays 0; Not Voting 5**

AYES

Knotts
Reese

Alexander
Cromer

O'Dell
Malloy

Total--6

NAYS

Total--0

NOT VOTING

McGill
Verdin

Elliott
Campsen

Ford

Total--5

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H. 3557--Adopted

On motion of Senator KNOTTS, with unanimous consent, the Resolution was taken up for immediate consideration.

The Resolution was adopted, ordered returned to the House.

Invitations Accepted

Tuesday, March 3, 2009, 11:30 a.m. – 2:00 p.m.

Members of the Senate, clerks and attaches, “Jasper on the Move” Low Country Shrimp Boil, State House Grounds, by JASPER CHAMBER OF COMMERCE

Tuesday, March 3, 2009, 6:00 – 7:30p.m

Members of the Senate, clerks and attaches, Reception, MoMo’s Bistro, FILM CITY, SOUTH CAROLINA

Wednesday, March 4, 2009, 8:00 – 10:00 a.m.

Members of the Senate, Breakfast, Room 112, Blatt Building, by the FOUNDATION FOR THE SOUTH CAROLINA COMMISSION FOR THE BLIND

MOTION ADOPTED

On motion of Senator L. MARTIN, with unanimous consent, the Senate agreed that, when the Senate adjourns today, it stand adjourned to meet tomorrow at 10:45 A.M.

THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.

THIRD READING BILLS

The following Bills were read the third time and ordered sent to the House of Representatives:

S. 184 -- Senators McConnell and Ford: A BILL TO AMEND SECTION 40-27-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO A PERSON WHO BUYS JUNK, SO AS TO REQUIRE A PERSON WHO BUYS JUNK THAT CONSISTS OF TWENTY-FIVE POUNDS OF SCRAP METAL OR VEHICLE PARTS TO KEEP WITH THE RECORD OF PURCHASE A PHOTOCOPY OF THE SELLER’S DRIVER’S LICENSE OR OTHER GOVERNMENT ISSUED PICTURE IDENTIFICATION

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CARD THAT SHOWS THE SELLER'S NAME AND ADDRESS; TO AMEND SECTION 40-27-40, RELATING TO PENALTIES FOR VIOLATING PROVISIONS OF THE JUNK DEALER ARTICLE, SO AS TO INCREASE THE FINE FROM A MAXIMUM OF ONE HUNDRED DOLLARS TO FIVE HUNDRED DOLLARS AND TO ESTABLISH THAT EACH VIOLATION CONSTITUTES A SEPARATE OFFENSE; TO AMEND SECTION 56-5-5670, RELATING TO A DEMOLISHER PURCHASING OR ACQUIRING A VEHICLE TO DEMOLISH, SO AS TO REQUIRE A DEMOLISHER THAT ACQUIRES A VEHICLE OR VEHICLE PARTS WITH A TOTAL WEIGHT OF TWENTY-FIVE POUNDS OR MORE TO KEEP A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT ISSUED PICTURE IDENTIFICATION CARD THAT SHOWS THE SELLER'S NAME AND ADDRESS AND TO ESTABLISH THAT A VIOLATION OF THOSE PROVISIONS IS A MISDEMEANOR WITH A FINE NO MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE OR NOT EXCEEDING FIVE THOUSAND DOLLARS FOR THE SAME SET OF TRANSACTIONS OR IMPRISONED FOR NO MORE THAN SIXTY DAYS, WITH EACH VIOLATION CONSTITUTING A SEPARATE OFFENSE; AND TO AMEND SECTION 56-5-5945, RELATING TO A DEMOLISHER OBTAINING A VEHICLE TITLE, SO AS TO REQUIRE A DEMOLISHER WHO PURCHASES OR ACQUIRES A VEHICLE OR VEHICLE PART WITH A TOTAL WEIGHT OF TWENTY-FIVE OR MORE POUNDS TO KEEP A PHOTOCOPY OF THE SELLER'S DRIVER'S LICENSE OR OTHER GOVERNMENT PICTURE IDENTIFICATION CARD THAT SHOWS THE PERSON'S NAME AND ADDRESS AND THE YEAR, MAKE, MODEL, AND IDENTIFICATION NUMBER OF THE VEHICLE, IF AVAILABLE, ALONG WITH ANY OTHER IDENTIFYING FEATURES, AND TO PROVIDE A VIOLATION CONSTITUTES A MISDEMEANOR WITH A FINE NO MORE THAN FIVE HUNDRED DOLLARS FOR EACH OFFENSE OR NO MORE THAN FIVE THOUSAND DOLLARS FOR THE SAME SET OF TRANSACTIONS OR IMPRISONED FOR NO MORE THAN SIXTY DAYS, OR BOTH, AND TO ESTABLISH THAT EACH VIOLATION CONSTITUTES A SEPARATE OFFENSE.

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Recorded Vote

Senator RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

S. 98 -- Senator Land: A BILL TO AMEND SECTION 50-21-120 OF THE 1976 CODE, RELATING TO THE DUTY OF THE OWNER OF A BOAT LIVERY, TO REMOVE THE PROVISIONS MANDATING THE OWNER'S LIABILITY FOR NEGLIGENT OPERATION OF A VESSEL.

Recorded Vote

Senator RYBERG and BRYANT desired to be recorded as voting in favor of the third reading of the Bill.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED
READ THE SECOND TIME**

S. 195 -- Senator McConnell: A BILL TO AMEND SECTION 50-21-870 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE WEARING OF PERSONAL FLOTATION DEVICES ON PERSONAL WATERCRAFTS, SO AS TO PROVIDE THAT A PERSON IS NOT REQUIRED TO WEAR A PERSONAL FLOTATION DEVICE IF THE PERSON IS IN POSSESSION OF A PERSONAL WATERCRAFT THAT IS LOCATED IN THREE FEET OF WATER OR LESS, AND IS ANCHORED, AND THE ENGINE IS NOT OPERATING.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Fish, Game and Forestry.

Senators CROMER, GROOMS and KNOTTS proposed the following amendment (195R005.REC), which was adopted:

Amend the Committee Amendment, as and if amended, page 1, by striking lines 26 -29 and inserting:

/ III, or Type V; This subsection does not apply if a person over the age of twelve is in possession of a non-operating personal watercraft that is in three feet of water or less, or anchored, or moored to a fixed or stationary floating object, excluding another personal watercraft:/

Renumber sections to conform.

Amend title to conform.

The perfecting amendment was adopted.

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The Committee on Fish, Game and Forestry proposed the following amendment (195R004.RWC), which was adopted:

Amend the bill as and if amended, Page 1, by striking lines 33 - 35 and inserting:

/ III, or Type V. This subsection does not apply if the person is in possession of a personal watercraft that is anchored, or moored to a fixed or stationary floating object, excluding another personal watercraft; /

Renumber sections to conform.

Amend title to conform.

The committee amendment was adopted, as perfected.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

Recorded Vote

Senator RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of the Bill.

THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.

MOTION ADOPTED

S. 191 -- Senators McConnell, Malloy, Campsen, Sheheen, Ford, Rose, Campbell and Knotts: A BILL TO ENACT THE SOUTH CAROLINA REDUCTION OF RECIDIVISM ACT OF 2009, TO PROVIDE LAW ENFORCEMENT OFFICERS WITH ADDITIONAL AUTHORITY REDUCE RECIDIVISM RATES, APPREHEND CRIMINAL AND PROTECT POTENTIAL VICTIMS FROM CRIMINAL ENTERPRISES; TO PROVIDE THAT YOUTHFUL OFFENDERS AND OTHER INMATES MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE AS A CONDITION OF RELEASE, SUPERVISED FURLOUGH, OR PAROLE. (ABBREVIATED TITLE)

Senator L. MARTIN, as Chairman of the Committee on Rules, moved under Rule 32B to take up the Bill immediately after the Bills on Special Order.

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The motion was adopted.

MOTION ADOPTED

On motion of Senator L. MARTIN, the Senate agreed to dispense with the Motion Period.

THE SENATE PROCEEDED TO THE INTERRUPTED DEBATE.

CARRIED OVER

S. 12 -- Senators Leatherman, Alexander, O'Dell, Cleary, Leventis, Elliott, Lourie, Malloy and Setzler: A BILL TO ESTABLISH THE SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION, TO PROVIDE FOR THE COMMISSION'S MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES, TO PROVIDE THAT THE COMMISSION MUST CONDUCT A COMPREHENSIVE STUDY OF THE STATE'S TAX SYSTEM AND SUBMIT A REPORT OF ITS RECOMMENDED CHANGES TO FURTHER THE GOAL OF MAINTAINING AND ENHANCING THE STATE AS AN OPTIMUM COMPETITOR IN THE EFFORT TO ATTRACT BUSINESSES AND INDIVIDUALS TO LOCATE, LIVE, WORK, AND INVEST IN THE STATE, AND TO PROVIDE FOR PROCEDURES GOVERNING THE CONSIDERATION OF LEGISLATION RESULTING FROM THE COMMISSION'S RECOMMENDATIONS.

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Finance.

On motion of Senator McCONNELL, the Bill was carried over.

BY PRIOR MOTION UNDER RULE 32B, THE SENATE PROCEEDED TO A CONSIDERATION OF S. 191.

AMENDED, READ THE SECOND TIME

S. 191 -- Senators McConnell, Malloy, Campsen, Sheheen, Ford, Rose, Campbell and Knotts: A BILL TO ENACT THE SOUTH CAROLINA REDUCTION OF RECIDIVISM ACT OF 2009, TO PROVIDE LAW ENFORCEMENT OFFICERS WITH ADDITIONAL AUTHORITY REDUCE RECIDIVISM RATES, APPREHEND CRIMINAL AND PROTECT POTENTIAL VICTIMS FROM

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CRIMINAL ENTERPRISES; TO PROVIDE THAT YOUTHFUL OFFENDERS AND OTHER INMATES MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE AS A CONDITION OF RELEASE, SUPERVISED FURLOUGH, OR PAROLE. (ABBREVIATED TITLE)

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

Senator L. MARTIN was recognized to speak on the Bill.

Senator McCONNELL asked unanimous consent to make a motion to take up Amendment No. 3 for immediate consideration.

There was no objection.

Amendment No. 3

Senators McCONNELL and SCOTT proposed the following Amendment No. 3 (JUD0191.003), which was adopted:

Amend the bill as and if amended, by striking all after the enacting words and inserting the following:

/ SECTION 1. This act may be cited as the "South Carolina Reduction of Recidivism Act of 2009". It is the intent of the General Assembly of South Carolina to provide law enforcement officers with the statutory authority to reduce recidivism rates of probationers and parolees, apprehend criminals, and protect potential victims from criminal enterprises.

SECTION 2. Section 63-19-1820(A)(1) of the 1976 Code is amended to read:

"(A)(1) The Board of Juvenile Parole shall meet monthly and at other times as may be necessary to review the records and progress of children committed to the custody of the Department of Juvenile Justice for the purpose of deciding the release or revocation of release of these children. The parole board shall make periodic inspections, at least quarterly, of the records of persons committed to the custody of the Department of Juvenile Justice and may issue temporary and final discharges or release these persons conditionally and prescribe conditions for release into aftercare. Before a juvenile is conditionally released, the juvenile must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause, of the juvenile's person, any vehicle the juvenile owns or drives, and any of the juvenile's possessions by: (1) the juvenile's aftercare counselor; (2)

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any probation agent employed by the Department of Probation, Parole and Pardon Services; or (3) any other law enforcement officer. The residence of the juvenile shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and the juvenile must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. A juvenile must not be conditionally released by the parole board if he fails to comply with this provision.

A law enforcement officer conducting a search or seizure without a warrant pursuant to this subitem shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.”

SECTION 3. Section 63-19-1850(A) of the 1976 Code is amended to read:

“(A) A juvenile who shall have been conditionally released from a correctional facility shall remain under the authority of the parole board until the expiration of the specified term imposed in the juvenile’s conditional aftercare release. The specified period of conditional release may expire before but not after the twenty-first birthday of the juvenile. Each juvenile conditionally released is subject to the conditions and restrictions of the release and may at any time on the order of the parole board be returned to the custody of a correctional institution for violation of aftercare rules or conditions of release. The conditions of release must include the requirement that the juvenile parolee must permit the search or seizure, with or without a search warrant, with or without cause of the juvenile parolee’s person, any vehicle the juvenile parolee owns or drives, and any of the juvenile parolee’s possessions by: (1) his aftercare counselor; (2) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (3) any other law enforcement officer. The residence of the juvenile parolee shall be subject to search or seizure with or without a search warrant, based on reasonable suspicions. A juvenile parolee must agree in writing that he shall notify the owner of the dwelling

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where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this subsection shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.”

SECTION 4. Section 24-19-110 of the 1976 Code is amended to read:

“Section 24-19-110. The division may at any time after reasonable notice to the director release conditionally under supervision a committed youthful offender. Before a youthful offender may be conditionally released, the youthful offender must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause of the youthful offender’s person, any vehicle the youthful offender owns or drives, and any of the youthful offender’s possessions by: (1) his supervisory agent; (2) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (3) any other law enforcement officer. The residence of the youthful offender shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and the youthful offender must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. A youthful offender must not be conditionally released by the division if he fails to comply with this provision. When, in the judgment of the director, a committed youthful offender should be released conditionally under supervision, he shall so report and recommend to the division. The conditions of release must include the requirement that the youthful offender must permit the search or seizure, with or without a search warrant, with or without cause, of the youthful offender’s person, any vehicle the youthful offender owns or drives, and any of the youthful

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offender's possessions by: (1) his supervisory agent; (2) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (3) any other law enforcement officer. The youthful offender must permit the search or seizure, with or without a search warrant, based on reasonable suspicions, of his residence, and the youthful offender must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

The division may regularly assess a reasonable fee to be paid by the youthful offender who is on conditional release to offset the cost of his supervision.

The division may discharge a committed youthful offender unconditionally at the expiration of one year from the date of conditional release.”

SECTION 5. Section 24-13-710 of the 1976 Code is amended to read:

“Section 24-13-710. The Department of Corrections and the Department of Probation, Parole, and Pardon Services shall jointly develop the policies, procedures, guidelines, and cooperative agreement for the implementation of a supervised furlough program which permits carefully screened and selected inmates who have served the mandatory minimum sentence as required by law or have not committed a violent crime as defined in Section 16-1-60, a ‘no parole offense’ as defined in Section 24-13-100, the crime of criminal sexual conduct in the third degree as defined in Section 16-3-654, or the crime of committing or attempting a lewd act upon a child under the age of fourteen as defined

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in Section 16-15-140 to be released on furlough prior to parole eligibility and under the supervision of state probation and parole agents with the privilege of residing in an approved residence and continuing treatment, training, or employment in the community until parole eligibility or expiration of sentence, whichever is earlier.

Before an inmate may be released on supervised furlough, the inmate must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause of the inmate's person, any vehicle the inmate owns or drives, and any of the inmate's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. The residence of the inmate shall be subject to search or seizure with or without a search warrant, based on reasonable suspicions, and the inmate must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. An inmate must not be granted supervised furlough if he fails to comply with this provision.

The department and the Department of Probation, Parole, and Pardon Services shall assess a fee sufficient to cover the cost of the participant's supervision and any other financial obligations incurred because of his participation in the supervised furlough program as provided by this article. The two departments shall jointly develop and approve written guidelines for the program to include, but not be limited to, the selection criteria and process, requirements for supervision, conditions for participation, and removal.

The conditions for participation must include the requirement that the offender must permit the search or seizure, with or without a search warrant, with or without cause, of the offender's person, any vehicle the offender owns or drives, and any of the offender's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. The residence of the offender shall be subject to search or seizure with or without a search warrant, based on reasonable suspicions, and the offender must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search

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or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

The cooperative agreement between the two departments shall specify the responsibilities and authority for implementing and operating the program. Inmates approved and placed on the program must be under the supervision of agents of the Department of Probation, Parole, and Pardon Services who are responsible for ensuring the inmate's compliance with the rules, regulations, and conditions of the program as well as monitoring the inmate's employment and participation in any of the prescribed and authorized community-based correctional programs such as vocational rehabilitation, technical education, and alcohol/drug treatment. Eligibility criteria for the program include, but are not limited to, all of the following requirements:

- (1) maintain a clear disciplinary record for at least six months prior to consideration for placement on the program;
- (2) demonstrate to Department of Corrections' officials a general desire to become a law-abiding member of society;
- (3) satisfy any other reasonable requirements imposed upon him by the Department of Corrections;
- (4) have an identifiable need for and willingness to participate in authorized community-based programs and rehabilitative services;
- (5) have been committed to the State Department of Corrections with a total sentence of five years or less as the first or second adult commitment for a criminal offense for which the inmate received a sentence of one year or more. The Department of Corrections shall notify victims pursuant to Article 15, Chapter 3, Title 16 as well as the sheriff's office of the place to be released before releasing inmates through any supervised furlough program. These requirements do not apply to the crimes referred to in this section."

SECTION 6. Section 24-13-720 of the 1976 Code is amended to read:

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“Section 24-13-720. Unless sentenced to life imprisonment, an inmate under the jurisdiction or control of the Department of Corrections who has not been convicted of a violent crime under the provisions of Section 16-1-60 or a ‘no parole offense’ as defined in Section 24-13-100 may, within six months of the expiration of his sentence, be placed with the program provided for in Section 24-13-710 and is subject to every rule, regulation, and condition of the program. Before an inmate may be released on supervised furlough, the inmate must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause, of the inmate’s person, any vehicle the inmate owns or drives, and any of the inmate’s possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. The residence of the inmate shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and the inmate must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. An inmate must not be granted supervised furlough if he fails to comply with this provision.

The conditions for participation must include the requirement that the offender must permit the search or seizure, with or without a search warrant, with or without cause, of the inmate’s person, any vehicle the inmate owns or drives, and any of the inmate’s possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. An inmate must also agree that his residence shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services

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for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

No inmate otherwise eligible under the provisions of this section for placement with the program may be so placed unless he has qualified under the selection criteria and process authorized by the provisions of Section 24-13-710. He must also have maintained a clear disciplinary record for at least six months prior to eligibility for placement with the program.”

SECTION 7. Subsections (D) and (E) of Section 24-13-1330 of the 1976 Code are amended to read:

“(D) An applicant may not participate in a program unless he agrees to be bound by all of its terms and conditions and indicates this agreement by signing the following:

‘I accept the foregoing program and agree to be bound by its terms and conditions. I understand that my participation in the program is a privilege that may be revoked at the sole discretion of the director. I understand that I shall complete the entire program successfully to obtain a certificate of earned eligibility upon the completion of the program, and if I do not complete the program successfully, for any reason, I will be transferred to a nonshock incarceration correctional facility to continue service of my sentence.’

Before an inmate may be released on parole, the inmate must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause, of the inmate’s person, any vehicle the inmate owns or drives, and any of the inmate’s possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. The residence of a shock incarceration inmate shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. A shock incarceration inmate must not be granted parole release by the department if he fails to comply with this provision.

A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement

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agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

(E) An inmate who has completed a shock incarceration program successfully is eligible to receive a certificate of earned eligibility and must be granted parole release if the inmate has executed the agreements described in subsection (D) of this section. The conditions of parole must include the requirement that the parolee must permit the search or seizure, with or without a search warrant, with or without cause, of the parolee's person, any vehicle the parolee owns or drives, and any of the parolee's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. The residence of the parolee shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation."

SECTION 8. Section 24-21-410 of the 1976 Code is amended to read:

"Section 24-21-410. After conviction or plea for any offense, except a crime punishable by death or life imprisonment, the judge of a court of record with criminal jurisdiction at the time of sentence may suspend the imposition or the execution of a sentence and place the

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defendant on probation or may impose a fine and also place the defendant on probation. Probation is a form of clemency. Before a defendant may be placed on probation, he must agree in writing to be subject to a search or seizure, with or without a search warrant, based on reasonable suspicions of the defendant's person, any vehicle the defendant owns or drives, and any of the defendant's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. The residence of the defendant shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. A defendant must not be placed on probation by the court if he fails to comply with this provision and instead shall be required to serve the suspended portion of the defendant's sentence.

A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation."

SECTION 9. The first unnumbered paragraph of Section 24-21-430 of the 1976 Code is amended to read:

"Section 24-21-430. The court may impose by order duly entered and may at any time modify the conditions of probation and may include among them any of the following or any other condition not prohibited in this section; however, the conditions imposed must include the requirement that the probationer must permit the search or seizure, with or without a search warrant, based on reasonable suspicions of the probationer's person, any vehicle the probationer owns or drives, and any of the probationer's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. The residence of the probationer shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and the

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probationer must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

To effectively supervise probationers, the director shall develop policies and procedures for imposing conditions of supervision on probationers. These conditions may enhance but must not diminish court imposed conditions.”

SECTION 10. Section 24-21-560(B) of the 1976 Code is amended to read:

“(B) A community supervision program operated by the Department of Probation, Parole, and Pardon Services must last no more than two continuous years. The period of time a prisoner is required to participate in a community supervision program and the individual terms and conditions of a prisoner’s participation shall be at the discretion of the department based upon guidelines developed by the director; however, the conditions of participation must include the requirement that the offender must permit the search or seizure, with or without a search warrant, with or without cause, of the offender’s person, any vehicle the offender owns or drives, and any of the offender’s possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. The residence of the offender shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and the offender must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall

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be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this subsection shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

A prisoner participating in a community supervision program must be supervised by a probation agent of the department. The department must determine when a prisoner completes a community supervision program, violates a term of community supervision, fails to participate in a program satisfactorily, or whether a prisoner should appear before the court for revocation of the community supervision program.”

SECTION 11. Section 24-21-640 of the 1976 Code is amended to read:

“Section 24-21-640. The board must carefully consider the record of the prisoner before, during, and after imprisonment, and no such prisoner may be paroled until it appears to the satisfaction of the board: that the prisoner has shown a disposition to reform; that, in the future he will probably obey the law and lead a correct life; that by his conduct he has merited a lessening of the rigors of his imprisonment; that the interest of society will not be impaired thereby; and, that suitable employment has been secured for him.

Before an inmate may be released on parole, he must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or drives, and any of the inmate's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. The residence of the inmate shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must also agree in writing that he shall notify the owner of the dwelling where he resides

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that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. An inmate must not be granted parole release by the board if he fails to comply with this provision.

A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

The board must establish written, specific criteria for the granting of parole and provisional parole. This criteria must reflect all of the aspects of this section and include a review of a prisoner's disciplinary and other records. The criteria must be made available to all prisoners at the time of their incarceration and the general public. The paroled prisoner must, as often as may be required, render a written report to the board giving that information as may be required by the board which must be confirmed by the person in whose employment the prisoner may be at the time. The board must not grant parole nor is parole authorized to any prisoner serving a sentence for a second or subsequent conviction, following a separate sentencing for a prior conviction, for violent crimes as defined in Section 16-1-60. Provided that where more than one included offense shall be committed within a one-day period or pursuant to one continuous course of conduct, such multiple offenses must be treated for purposes of this section as one offense.

Any part or all of a prisoner's in-prison disciplinary records and, with the prisoner's consent, records involving all awards, honors, earned work credits and educational credits, are subject to the Freedom of Information Act as contained in Chapter 4 of Title 30."

SECTION 12. Section 24-21-645 of the 1976 Code is amended to read:

"Section 24-21-645. The board may issue an order authorizing the parole which must be signed either by a majority of its members or by all three members meeting as a parole panel on the case ninety days prior to the effective date of the parole; however, at least two-thirds of

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the members of the board must authorize and sign orders authorizing parole for persons convicted of a violent crime as defined in Section 16-1-60. A provisional parole order shall include the terms and conditions, if any, to be met by the prisoner during the provisional period and terms and conditions, if any, to be met upon parole.

The conditions of parole must include the requirement that the parolee must permit the search or seizure, with or without a search warrant, with or without cause, of the parolee's person, any vehicle the parolee owns or drives, and any of the parolee's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services; or (2) any other law enforcement officer. The residence of the parolee shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

Upon satisfactory completion of the provisional period, the director or one lawfully acting for him must issue an order which, if accepted by the prisoner, shall provide for his release from custody. However, upon a negative determination of parole, prisoners in confinement for a violent crime as defined in Section 16-1-60 must have their cases reviewed every two years for the purpose of a determination of parole, except that prisoners who are eligible for parole pursuant to Section 16-25-90, and who are subsequently denied parole must have their cases reviewed every twelve months for the purpose of a determination of parole. This section applies retroactively to a prisoner who has had a

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parole hearing pursuant to Section 16-25-90 prior to the effective date of this act.”

SECTION 13. The repeal or amendment by the provisions of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 14. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 15. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator McCONNELL explained the amendment.

The amendment was adopted.

The question then was the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 31; Nays 0

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AYES

Alexander	Anderson	Bright
Bryant	Campbell	Cleary
Courson	Cromer	Davis
Fair	Grooms	Hayes
Jackson	Knotts	Lourie
Malloy	<i>Martin, L.</i>	<i>Martin, S.</i>
Massey	McConnell	Mulvaney
Nicholson	O'Dell	Peeler
Reese	Rose	Ryberg
Scott	Shoopman	Thomas
Williams		

Total--31

NAYS

Total--0

The Bill was read the second time, passed and ordered to a third reading.

MOTION ADOPTED

On motion of Senators PEELER, ALEXANDER, ANDERSON, BRIGHT, BRYANT, CAMPBELL, CAMPSER, CLEARY, COLEMAN, COURSON, CROMER, DAVIS, ELLIOTT, FAIR, FORD, GROOMS, HAYES, HUTTO, JACKSON, KNOTTS, LAND, LEATHERMAN, LEVENTIS, LOURIE, MALLOY, *MARTIN, L.*, *MARTIN, S.*, MASSEY, MATTHEWS, McCONNELL, MCGILL, MULVANEY, NICHOLSON, O'DELL, PINCKNEY, RANKIN, REESE, ROSE, RYBERG, SCOTT, SETZLER, SHEHEEN, SHOOPMAN, THOMAS, VERDIN and WILLIAMS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Sarah Collins Caggiano -- known to her family and friends as "Miss Sadie"-- beloved wife of Vincent G. Caggiano, Jr. She was the devoted mother of Frank Caggiano, former Clerk of the Senate, and Dr. Anthony Caggiano, Linda Caggiano, Alfred Caggiano, Christopher Caggiano, Joseph Caggiano and Sara Tajana and doting grandmother of 18 and great-grandmother of two.

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and

MOTION ADOPTED

On motion of Senator COURSON, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. F. Lee Brinkley, Jr. of Columbia, S.C., a longtime friend and business associate.

and

MOTION ADOPTED

On motion of Senator WILLIAMS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mr. Joshua Preston Moore of Bennettsville, S.C.

ADJOURNMENT

At 3:45 P.M., on motion of Senator L. MARTIN, the Senate adjourned to meet tomorrow at 10:45 A.M.

* * *

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